IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No. 2957 of 2005
Date of Decision: 26.9.2006

New India Insurance Company Ltd. ...Petitioner

Versus

Ramesh Kumar and others ....Respondents

Coram: Hon'ble Mr. Justice Hemant Gupta.

Present: Shri N.K. Khosla, Advocate, for the petitioner.

Shri R.N. Lohan, Advocate, for respondent No.1.

JUDGMENT

The challenge in the present revision petition is to the order passed by the learned Motor Accident Claims Tribunal (for short `the Tribunal') on 10.3.2005, whereby an application filed by the petitioner to contest the claim petition on merits, was declined.

It is the case of the petitioner that there is a collusion between the claimant Ramesh Kumar and the owner of the offending vehicle for the ground that no case has been registered in respect of the alleged accident and, therefore, the Insurance Company be permitted to contest the claim on all the grounds available to the owner.

It may be noticed that Ramesh Kumar claimant is a Head Constable who is stated to be on duty at the time of accident. It is the case of the claimant that in fact, the factum of accident was reported with the Police and an FIR No. 162 stands recorded in this regard. The learned Tribunal declined the application on the ground that since the accident

stands reported to the police authorities, therefore, the petitioner cannot be permitted to take over the defence of the owner.

Keeping in view the facts and circumstances of the case, I deem it appropriate to permit the Insurance Company to take over the defence of the owner as such action will advance the interest of justice to find out whether the claimant has actually received any injury in the alleged motor vehicular accident. While taking over such defence, the interest of the claimant is not prejudiced in any manner as in any case he has to establish the accident in the manner alleged by him.

Consequently, the present revision petition is allowed. The impugned order passed by the learned trial Court, is set aside. The petitioner is permitted to take over the defence of the owner in terms of Section 173 of the Motor Vehicles Act, 1988.

26-09-2006 (HEMANT GUPTA)
ds JUDGE